

AUG 11 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

GEORGETTE H. SAID,

Plaintiff - Appellant,

v.

EMMANUEL PASCUAL; et al.,

Defendants - Appellees.

No. 06-55174

D.C. No. CV-05-00725-VAP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted August 7, 2006**

Before: SCHROEDER, Chief Judge, REINHARDT and HAWKINS, Circuit Judges.

Georgette H. Said appeals from the district court's dismissal for lack of subject matter jurisdiction of an action against federal employees.

We have reviewed the responses to this court's May 25, 2006 order to show cause and we conclude that the questions raised in this appeal are so insubstantial

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

An action against Internal Revenue Service employees acting in their official capacity is barred by the doctrine of sovereign immunity absent express statutory consent to sue. *See Gilbert v. DaGrossa*, 756 F.2d 1455, 1458 (9th Cir. 1985). Further, claims relating to the assessment or collection of taxes are not actionable under the Federal Tort Claims Act or as a *Bivens* action. *See* 28 U.S.C. § 2680(c) (FTCA); *Fry v. Melaragno*, 939 F.2d 832, 836-38 (9th Cir. 1991) (*Bivens*).

Accordingly, we summarily affirm the district court's judgment.

AFFIRMED.